

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:20-cv-00031-MR-WCM**

ERIN OSMON,

Plaintiff,

vs.

**THE UNITED STATES OF AMERICA,
and TSO ROBINSON,**

Defendants.

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ORDER

THIS MATTER is before the Court on the Defendant United States' Motion to Dismiss Plaintiff's Complaint [Doc. 7]; the Defendant Tso Robinson's Motion to Dismiss Plaintiff's Complaint [Doc. 14]; the Magistrate Judge's Memorandum and Recommendation [Doc. 21] regarding the disposition of said motions; the Defendant Tso Robinson's Objection to Recommendation Regarding Qualified Immunity [Doc. 23]; and the Plaintiff's Objection to Magistrate's Memorandum & Recommendation [Doc. 24].

Pursuant to 28 U.S.C. § 636(b) and the Standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the Defendants' Motions to

Dismiss. On December 7, 2020, the Magistrate Judge issued a Memorandum and Recommendation, recommending that the Defendants' Motions to Dismiss be granted. [Doc. 21]. On December 21, 2020, Defendant Robinson filed a limited Objection to the Magistrate Judge's Memorandum and Recommendation. [Doc. 23]. Upon being granted an extension of time, the Plaintiff filed her Objection to the Magistrate Judge's Memorandum and Recommendation on December 28, 2020. [Doc. 24]. On January 7, 2021, the Defendants timely filed their respective Responses to the Plaintiff's Objection. [Docs. 25, 26]. On February 24, 2021, the Plaintiff filed a Notice of Supplemental Authority. [Doc. 27].

After a careful review of the Memorandum and Recommendation, the Court concludes that the Magistrate Judge's proposed conclusions of law are correct and are consistent with current case law. Accordingly, the Court overrules the parties' objections and accepts the Magistrate Judge's recommendation that the Defendants' Motions to Dismiss should be granted.

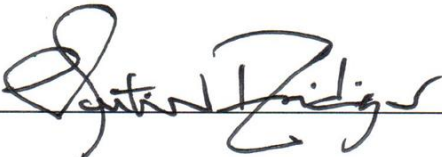
Accordingly, **IT IS, THEREFORE, ORDERED** that the Objections to the Magistrate Judge's Memorandum and Recommendation [Docs. 23, 24] are **OVERRULED**, and the recommendation of the Magistrate Judge [Doc. 21] is **ACCEPTED**.

IT IS FURTHER ORDERED that the Defendant United States' Motion to Dismiss Plaintiff's Complaint [Doc. 7] and the Defendant TSO Robinson's Motion to Dismiss Plaintiff's Complaint [Doc. 14] are **GRANTED** as follows:

1. The Defendant United States' Motion to Dismiss Plaintiff's Complaint [Doc. 7] is **GRANTED** and the Plaintiff's FTCA claim against the Defendant United States is hereby **DISMISSED WITHOUT PREJUDICE**.
2. The Defendant TSO Robinson's Motion to Dismiss Plaintiff's Complaint [Doc. 14] is **GRANTED** and the Plaintiff's Bivens claim against the Defendant Tso Robinson is hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Signed: March 29, 2021



Martin Reidinger
Chief United States District Judge

